

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FILED
U.S. DISTRICT COURT
DISTRICT OF MASS.
FEB 23 2005
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ELAINE L. CHAO, Secretary of Labor, *
United States Department of Labor, *
*
Plaintiff, *
*
v. *
*
ALB ENTERPRISES, INC. *
and MICHAEL BANIUKIEWICZ *
*
Defendants. *

CIVIL ACTION

FILE NO.

25-11-00 MLW

JUDGMENT

Plaintiff having filed a complaint and the defendants having appeared, received a copy thereof, waived service of process and, consented to the entry of this judgment without contest.

It is, therefore, ORDERED, ADJUDGED and DECREED that defendants, their agents, servants, employees, and all persons acting or claiming to act in their behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of the Fair Labor Standards Act, as amended (29 USC 201 et seq.), hereinafter referred to as the Act, in any of the following manners;

Defendants shall not, contrary to sections 7 and 15(a)(2) of the Act, employ any employees who in any workweek are engaged in commerce or in the production of goods for commerce, or who are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, for workweeks longer than forty hours, unless such employee receives compensation for his employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which he is employed.

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Defendants shall not fail to make, keep, and preserve records of employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations issued, and from time to time amended, pursuant to section 11(c) of the Act and found in 29 CFR 516.

The defendants represent that they have been in compliance with the Act since January 1, 2004. In resolving the amount of back wages in this judgment, the plaintiff has relied on this representation, and, accordingly, the back wage provision of this judgment shall have no effect upon any back wages which may have accrued since that date.

Further, the Court finding as agreed to by the defendants that employees are due compensation in the amount of \$112,417.51 as shown on attached "Exhibit A" which is incorporated in and made a part hereof, it is

ORDERED, ADJUDGED and DECREED that the defendants are restrained from withholding payment of said compensation.

The back-wage provisions of this judgment shall be deemed satisfied when defendants deliver the above amount, together with interest thereon, according to the schedule set forth in the attached "Exhibit A". The Plaintiff will make distribution accordingly to the individuals named therein, less deductions for each employee's share of social security and withholding taxes. The defendants shall pay the employer's share thereof. When recovered wages have not been claimed by the employee within three years, the Secretary of Labor shall deposit them into the United States Treasury as miscellaneous receipts, pursuant to 29 USC 216(c).

Defendants shall not, under any circumstances, accept and keep any amount returned to by a person owed compensation under this judgment. Any such amount shall be immediately paid to the plaintiff as above.

It is further ORDERED, ADJUDGED and DECREED that each party bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

Dated February 18, 2005

Charles F. Way
United States District Judge

Defendants hereby consent to the entry of this judgment:

Plaintiff moves for entry of this judgment:

By Howard M. Radzely

Howard M. Radzely
Solicitor of Labor

Frank V. McDermott, Jr.
Regional Solicitor

John S. Casler
John S. Casler
Deputy Regional Solicitor
BBO# 078060

U.S. Department of Labor
Attorneys for Plaintiff

Back Wage balance	Due Date	Payment #	Payment Amount	Interest	Applied to Principle
\$ 112,417.51	01/31/2005	1	\$ 2,500.00	(\$93.68)	\$ 2,406.32
\$ 110,011.19	02/28/2005	2	\$ 2,500.00	(\$89.68)	\$ 2,410.32
\$ 107,600.87	03/31/2005	3	\$ 2,500.00	(\$85.75)	\$ 2,414.25
\$ 105,186.62	04/30/2005	4	\$ 2,500.00	(\$81.91)	\$ 2,418.09
\$ 102,768.53	05/31/2005	5	\$ 2,500.00	(\$78.16)	\$ 2,421.84
\$ 100,346.69	06/30/2005	6	\$ 2,500.00	(\$74.48)	\$ 2,425.52
\$ 97,921.18	07/31/2005	7	\$ 2,500.00	(\$70.90)	\$ 2,429.10
\$ 95,492.07	08/31/2005	8	\$ 2,500.00	(\$67.39)	\$ 2,432.61
\$ 93,059.47	09/30/2005	9	\$ 2,500.00	(\$63.97)	\$ 2,436.03
\$ 90,623.44	10/31/2005	10	\$ 2,500.00	(\$60.64)	\$ 2,439.36
\$ 88,184.08	11/30/2005	11	\$ 2,500.00	(\$57.39)	\$ 2,442.61
\$ 85,741.48	12/31/2005	12	\$ 2,500.00	(\$54.23)	\$ 2,445.77
\$ 83,295.71	01/31/2006	13	\$ 2,500.00	(\$51.16)	\$ 2,448.84
\$ 80,846.86	02/28/2006	14	\$ 2,500.00	(\$48.17)	\$ 2,451.83
\$ 78,395.03	03/31/2006	15	\$ 2,500.00	(\$45.27)	\$ 2,454.73
\$ 75,940.30	04/30/2006	16	\$ 2,500.00	(\$42.45)	\$ 2,457.55
\$ 73,482.75	05/31/2006	17	\$ 2,500.00	(\$39.73)	\$ 2,460.27
\$ 71,022.48	06/30/2006	18	\$ 2,500.00	(\$37.09)	\$ 2,462.91
\$ 68,559.56	07/31/2006	19	\$ 2,500.00	(\$34.54)	\$ 2,465.46
\$ 66,094.10	08/31/2006	20	\$ 2,500.00	(\$32.07)	\$ 2,467.93
\$ 63,626.17	09/30/2006	21	\$ 2,500.00	(\$29.70)	\$ 2,470.30
\$ 61,155.88	10/31/2006	22	\$ 2,500.00	(\$27.42)	\$ 2,472.58
\$ 58,683.29	11/30/2006	23	\$ 2,500.00	(\$25.22)	\$ 2,474.78
\$ 56,208.52	12/31/2006	24	\$ 2,500.00	(\$23.12)	\$ 2,476.88
\$ 53,731.64	01/31/2007	25	\$ 2,500.00	(\$21.10)	\$ 2,478.90
\$ 51,252.74	02/28/2007	26	\$ 2,500.00	(\$19.18)	\$ 2,480.82
\$ 48,771.92	03/31/2007	27	\$ 2,500.00	(\$17.35)	\$ 2,482.65
\$ 46,289.27	04/30/2007	28	\$ 2,500.00	(\$15.60)	\$ 2,484.40
\$ 43,804.87	05/31/2007	29	\$ 2,500.00	(\$13.95)	\$ 2,486.05
\$ 41,318.82	06/30/2007	30	\$ 2,500.00	(\$12.39)	\$ 2,487.61
\$ 38,831.21	07/31/2007	31	\$ 2,500.00	(\$10.92)	\$ 2,489.08
\$ 36,342.13	08/31/2007	32	\$ 2,500.00	(\$9.54)	\$ 2,490.46
\$ 33,851.68	09/30/2007	33	\$ 2,500.00	(\$8.26)	\$ 2,491.74
\$ 31,359.94	10/31/2007	34	\$ 2,500.00	(\$7.06)	\$ 2,492.94
\$ 28,867.00	11/30/2007	35	\$ 2,500.00	(\$5.96)	\$ 2,494.04
\$ 26,372.97	12/31/2007	36	\$ 2,500.00	(\$4.96)	\$ 2,495.04
\$ 23,877.92	01/31/2008	37	\$ 2,500.00	(\$4.04)	\$ 2,495.96
\$ 21,381.96	02/29/2008	38	\$ 2,500.00	(\$3.22)	\$ 2,496.78
\$ 18,885.18	03/31/2008	39	\$ 2,500.00	(\$2.49)	\$ 2,497.51
\$ 16,387.66	04/30/2008	40	\$ 2,500.00	(\$1.85)	\$ 2,498.15
\$ 13,889.51	05/31/2008	41	\$ 2,500.00	(\$1.31)	\$ 2,498.69
\$ 11,390.82	06/30/2008	42	\$ 2,500.00	(\$0.86)	\$ 2,499.14
\$ 8,891.68	07/31/2008	43	\$ 2,500.00	(\$0.50)	\$ 2,499.50
\$ 6,392.18	08/31/2008	44	\$ 2,500.00	(\$0.24)	\$ 2,499.76
\$ 3,892.42	09/30/2008	45	\$ 2,500.00	(\$0.07)	\$ 2,499.93
\$ 1,392.50	10/31/2008	46	\$ 1,392.50		\$ 1,392.50

EXHIBIT A